

The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, October 14, 2008 at Westfield Town Hall. Members present included Dan Degnan, Craig Wood, Martin Raines, Randy Graham, and William Sanders. Also present were Kevin Todd, Planner II; Jeremy Miller, Planner I; Director Greg Anderson, and City Attorney, Brian Zaiger.

APPROVAL OF MINUTES

Sanders reviewed the Public Hearing Rules and Procedures.

Degnan moved to approve the September, 2008 minutes as presented.

Raines seconded, and the motion passed by voice vote.

NEW BUSINESS

0810-SE-02 4909 Sheridan Road; *New Cingular Wireless PCS, LLC. AT&T Mobility*

The Appellant is requesting a Special Exception to the Westfield-Washington Zoning Ordinance (WC 16.04.125, B1) to allow a wireless communication tower and facility in the AG-SF1 District

Miller stated the petitioner has requested 0810-SE-02 be continued to the November 11th meeting in order to provide new information to the staff and the Board.

0810-VU-05 (continued) 3849 E. 216th Street; *Jeremy Ryan*

The Appellant is requesting a Variance of Use from the Westfield-Washington Zoning Ordinance (WC 16.04.030, B1) to allow a landscaping business in the AG-SF1 District.

Sanders noted for the record that this item has been continued as well.

0810-VU-06 304 W. Main Street; *Thornberry Real Estate*

The Appellant is requesting a Variance of Use from the Westfield-Washington Zoning Ordinance (WC 16.04.030, E1) to allow a software company, a real-estate company, and a construction company in the SF-3 District.

0810-VS-014 304 W. Main Street; *Thornberry Real Estate*

The Appellant is requesting a Variance of Standard from the following Westfield-Washington Zoning Ordinance sections:

1. **WC 16.04.070, 4** (to reduce the minimum lot size in the US 31 Overlay District from 5 acres to 0.39 acre)
2. **WC 16.04.070, 5c** (to reduce the front yard setback in the US 31 Overlay District from 60 feet to 20 feet)
3. **WC 16.04.070, 5d** (to reduce the side yard setback in the US 31 Overlay District from 45 feet to 10 feet on the east and 18 feet, 8 inches on the west)

4. **WC 16.04.070, 5f** (to reduce the minimum aggregate of side yard in the US 31 Overlay District from 90 feet to 28 feet, 8 inches)
5. **WC 16.04.070, 5g** (to reduce the minimum lot width in the US 31 Overlay District from half the depth of the lot (229.5 feet) to 73.66 feet)
6. **WC 16.04.070, 5h** (to reduce the minimum aggregate gross floor area in the US 31 Overlay District from 15,000 square feet to 4,050 square feet)
7. **WC 16.04.070, 8** (to vary the following US 31 Overlay building materials requirements for all facades):
 - o To reduce number of building materials from 3 to 1;
 - o To not require brick or stone as a building material; and,
 - o To reduce the number of external corners from 8 to 4.
8. **WC 16.04.120, 2f** (to reduce the parking aisle width from 24 feet to 12 feet)
9. **WC 16.06.060, B & C** (to reduce the west buffer yard requirements from a 15' yard with 8 evergreen trees and 39 evergreen shrubs to a 5' yard with 0 evergreen trees and 39 evergreen shrubs)
10. **WC 16.06.070, A 1 & 2** (to reduce the following interior parking lot island requirements):
 - o To reduce the planting requirements from 1 tree and 4 shrubs per island to 0 trees and 0 shrubs per island;
 - o To reduce the island width from 7 feet to 0 feet); and,
 - o To reduce the island curb height from 6 inches to 0 inches).
11. **WC 16.06.070, B2** (to reduce the west perimeter parking lot plantings from 1 tree/30 feet and 1 shrub/3 feet of parking lot length to 0 trees and 0 shrubs).

Todd requested the Board hear presentation on the above cases together, but vote on them separately. He further stated that public notice was not properly served according to BZA Rules of Procedure. He added the posting of the property with a sign did not occur ten days prior to the hearing as is required by the Rules of Procedure; however, the other two forms of notice, publishing in the newspaper and the certified letter, did occur at least ten days prior. He advised the Board that they must first decide whether to hear the case tonight or not, which would require a suspension of the rules by unanimous vote in order to waive the public notice requirements.

Petitioner requested a continuance for 90 days to work through issues, but stated he wishes to hear the Board's concerns in order to make modifications.

Sanders stated that since some of the items are not resolved by planning staff he does not wish to expose the Board to any type of opinion when they do not have a clear understanding of the recommendations of the planning staff.

Sanders asked Zaiger if they could hear the petitioner comments; Zaiger stated this is not a negotiating opportunity, but the petitioner wants to explain the situation and is looking for direction from the Board.

Zaiger advised the Board that the public hearing should be continued along with the case being continued since that is the petitioner's request.

Zaiger advised the Board to request the petitioner send first class mail notice two weeks prior to the hearing and tonight note that notice is carried over, and the Public Hearing is carried over to a date ninety days from now, which is January 13, 2009.

Wood moved to continue 0810-VU-06 and 0810-VS-14 for a period of ninety days with the condition that the appellant also notify adjacent property owners and interested parties by first class mail within ten days of the meeting date.

Raines seconded, and the motion passed 5-0.

The meeting adjourned at 7:22 p.m.

Chairman

Secretary